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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1997

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.
Petitioner

versus

HENRY CASSELLI, JR.
Respondent

Petition for Writ of Certiorari
from an Order of the 24th Judicial District
Court for the Parish of Jefferson, rendered on
November 7, 1997, docket number 450-346,
The Honorable Walter J. Rothschild, Judge

PETITION FOR WRIT OF CERTIORARI

Leslie A. Bonin
700 Camp Street
New Orleans, LA 70130
(504) 524-3306

Counsel for Petitioner,
Donna Madden Casselli

6 APP

QUESTIONS PRESENTED FOR REVIEW

May a trial court strip a parent of the custody of a minor child, even on an interim basis, without a hearing or an opportunity to cross-examine an expert upon whose written recommendations the trial court solely relied in issuing its order?

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STATEMENT OF THE BASIS FOR JURISDICTION

MAY IT PLEASE THE COURT:

Petitioner, DONNA MADDEN CASSELLI, brings this Petition for Writ of Certiorari to review the Decision of the 24th Judicial District Court for the State of Louisiana of November 7, 1997. An application for a Stay Order and Writs of Review, Certiorari, and Mandamus was denied by the Louisiana Fifth Circuit Court of Appeal on December 16, 1997, after deliberations lasting one month. An application for a Stay Order and Writs of Review, Certiorari, and Mandamus was denied by the Louisiana Supreme Court on February 6, 1998, after deliberations lasting three weeks. A final Request for a Stay Order, pending the timely filing and disposition of this Petition for a Writ of Certiorari, was denied by the Louisiana 24th Judicial District Court on February 9, 1998. The jurisdiction of this Honorable Court rests in 28 U.S.C. Section 1257.

STATEMENT OF STATUTES INVOLVED

U.S. Const. Amend. XIV, § 1 - Due Process of Law

" . . . nor shall any State deprive any person of life, liberty, or property, without due process of law . . . "

La. Civ. Code Art. 132 - Award of Custody to Parents

[First Paragraph of Article Omitted]

In the absence of agreement, or if the agreement is not in the best interest of the child, the court shall award custody to the parents jointly; however, if custody in one parent is shown by clear and convincing evidence to serve the best interest of the child, the court shall award custody to that parent.

La. Rev. Stat. § 9:331 - Custody or Visitation Proceeding; Evaluation by Mental Health Professional

A. The Court may order an evaluation of a party or the child in a custody or visitation proceeding for good cause shown. [Remainder of Paragraph Omitted]

B. The court may order a party or the child to submit to and cooperate in the evaluation, testing, or interview by the mental health professional. The mental health professional shall provide the court and the parties with a written report. The mental health professional shall serve as a witness of the court, subject to cross-examination by a party.

La. Code Civ. Proc. Art. 963 - Ex Parte and Contradictory Motions; Rule to Show Cause

[First Paragraph of Article Omitted]

If the order applied for by written motion is one to which the mover is not clearly entitled, or which requires supporting proof, the motion shall be served on and tried contradictorily with the adverse party.

La. Code Civ. Proc. 3945 - Incidental Order of Temporary Child Custody

A. The injunctive relief afforded either party to an action for divorce or other proceeding which includes a provision for the temporary custody of a minor child shall be governed by the additional provisions of this Article.

B. An ex parte order of temporary custody of a minor child shall not be granted unless:

(1) It clearly appears from specific facts shown by a verified petition or supporting affidavit that immediate and irreparable injury will result to the child before the adverse party or his attorney can be heard in opposition.

(2) The applicant's attorney certifies to the court, in writing, either:

(a) The efforts which have been made to give the adverse party reasonable notice of the date and time such order is being presented to the court.

(b) The reasons supporting his claim that notice should not be required.

C. An ex parte order of temporary custody shall:

(1) Expire by operation of law within fifteen days of signing of the order; however, the order may be extended for good cause shown at any time before its expiration for one period not exceeding ten days.

(2) Provide specific provisions for temporary visitation by the adverse party of not less than forty-eight hours during the fifteen-day period, unless the verified petition or supporting affidavit clearly demonstrates that immediate and irreparable injury will result to the child as a result of such visitation.

(3) Be endorsed with the date on which the ex parte order is signed and the date and hour of the rule to show cause.

D. The rule to show cause why the respondent should not be awarded the custody, joint custody, or visitation of the child shall be assigned for hearing not more than fifteen days after signing of the ex parte order of temporary custody.

E. Any ex parte order not in compliance with the provisions of this Article is not enforceable, and is null and void.

[Last Two Paragraphs of Article Omitted]

STATEMENT OF THE CASE

Henry Casselli, Jr. (hereinafter referred to as "Mr. Casselli") and Donna Madden Casselli (hereinafter referred to as "Ms. Casselli") were married on June 5, 1971. They were divorced on February 18, 1994, and on that date, entered into a Consent Judgment whereby they agreed to joint custody of their minor child, Marin Casselli (hereinafter referred to as "Marin"), with Ms. Casselli designated as the domiciliary parent. [Appendix A, Consent Judgment]. At the time this Consent Judgment was entered, Marin was thirteen years old. Marin is presently sixteen years old.

On November 22, 1996, Mr. Casselli filed a Rule to Show Cause and for Contempt wherein he requested that he be awarded approximately equal time sharing with Marin. [Appendix B, Rule to Show Cause and for Contempt].

Near Thanksgiving, 1996, as a result of an allergic reaction to prescribed medication and suffering from sleep deprivation, Ms. Casselli became manic, hysterical, and irrational, alleging that Mr. Casselli had sexually abused Marin. As a result of this unfortunate situation, and based upon the consent of both parties, the Trial Court issued an Interim Order on December 12, 1996, whereby Mr. Casselli was awarded temporary physical custody of Marin. [Appendix C, Interim Order of December 13, 1996]. This

Interim Order changed Marin's physical custody, not her legal custody.

In accordance with this Interim Order, Ms. Casselli was awarded physical custody of Marin on alternating weeks from Thursday afternoon through Monday morning. For the Summer of 1997, Ms. Casselli was awarded equal physical custody of Marin and in fact enjoyed the physical custody of Marin for the majority of the Summer. Then without justification, in August of 1997, Ms. Casselli's physical custody of Marin reverted back to the alternating week schedule of Thursday afternoon through Monday morning. However, Marin continues at her insistence to spend additional time in her mothers physical custody.

Six weeks after the events of Thanksgiving 1996, and two weeks after the Interim Order of December of 1996, on January 6, 1997, Mr. Casselli filed a Rule to Show Cause and a Supplemental and Amending Rule to Show Cause and for Contempt wherein he requested that a mental health professional be appointed by the Trial Court to conduct an evaluation of Ms. Casselli and that he be granted sole custody of Marin. [Appendix D, Rule to Show Cause (for appointment of mental health professional); Appendix E, Supplemental and Amending Rule to Show Cause and for Contempt (requesting sole custody)]. Ms. Casselli agreed to the appointment of a mental health professional and the Trial

Court appointed William Bradford Janzen, Ph.D. (hereinafter referred to as "Dr. Janzen") to conduct an evaluation of both parties and Marin.

The trial of Mr. Casselli's rules was scheduled for April 7, 1997. However, as a result of the late appointment of Dr. Janzen, his evaluation was not complete in time for the April 7, 1997 trial date and the parties agreed to continue the trial until October 8, 9, and 10, 1997, to allow ample time for Dr. Janzen to complete his evaluation and for the parties to complete their discovery.

In late September of 1997, it became clear to both parties that Dr. Janzen's report would not be received in enough time for them to prepare for the trial scheduled in October of 1997. Accordingly, both parties agreed that the trial would be continued again but that a status conference would be held on October 8, 1997. On or about September 29, 1997, Dr. Janzen faxed a copy of his report to both parties. Among other things, Dr. Janzen recommended that Mr. Casselli be awarded the sole custody of Marin.

On October 8, 1997, on oral motion of Mr. Casselli (in judge's chambers) and over the objections of Ms. Casselli, and after specifically denying her the right to a hearing, to present evidence, and to cross-examine Dr. Janzen, the Trial Court advised that it would adopt the recommendations of Dr. Janzen as an Interim Order pending the trial which is

presently scheduled for April 22, 23, and 24, 1998. [Appendix F, Interim Order of November 7, 1997]. There is no provision in Louisiana law for such an order absent a showing of immediate and irreparable harm to the minor child. Not only has Mr. Casselli made no such showing, he has made no such allegations.

On October 27, 1997, Ms. Casselli filed her Notice of Intention to Apply for Writs of Review, Certiorari, and Mandamus with the Trial Court. [Appendix G, Notice of Intention to Apply for Writs of Review, Certiorari, and Mandamus]. On November 12, 1997, a Stay Order and Writs of Review, Certiorari, and Mandamus was filed with the Louisiana Fifth Circuit Court of Appeal and on December 16, 1997, the Fifth Circuit Court of Appeal denied Ms. Casselli's Application for a Stay Order and Writs of Review, Certiorari, and Mandamus. [Appendix H, Louisiana Fifth Circuit Court of Appeal Writ Application Denial].

After deliberations lasting one month, the Louisiana Fifth Circuit Court of Appeal opined that "matters of this type should be heard as expeditiously as possible;" however, Ms. Casselli's complaint is not that the trial on the merits of the issue of Marin's custody was five months away, but rather that the Trial Court divested her of the joint custody of Marin without a hearing or an opportunity to cross-examine the expert upon whose written recommendation the Trial Court

solely relied in issuing its order. [Appendix H].

Further, despite the fact that no hearing was held and no testimony or evidence was offered, the Louisiana Fifth Circuit Court of Appeal cited "the volatile background of the case" to find that the Trial Court did not err in issuing its order. [Appendix H]. The only volatile event in this case occurred near Thanksgiving, 1996. There was no volatility in this case prior to that event nor has there been any volatility since.

A Stay Order and Writs of Review, Certiorari, and Mandamus was filed with the Louisiana Supreme Court on January 16, 1998, and on February 6, 1998, after deliberating for three weeks, the Louisiana Supreme Court denied Ms. Casselli's Application for a Stay Order and Writs of Review, Certiorari, and Mandamus. [Appendix I, Louisiana Supreme Court Writ Application Denial]. On February 9, 1998, the Trial Court denied a final request for a Stay Order pending the timely filing and disposition of the instant Petition for Writ of Certiorari with this Honorable Court. [Appendix J].

ARGUMENT

One of the most fundamental rights that can be adjudicated in a court of law is the right inherent in a parent's relationship with his or her child.[1] Unfortunately, in this case, a mother has lost the joint custody of her daughter without so much as a hearing or the ability to cross-examine an expert upon whose written recommendation the Trial Court solely relied. On November 7, 1997, by order of the Trial Court, Ms. Casselli was stripped of the joint custody of her daughter upon an oral motion and without a hearing or an opportunity to cross-examine the mental health professional upon whose recommendations the Trial Court solely relied in issuing its order.

I. THE TRIAL COURT VIOLATED MS. CASSELLI'S CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW BY STRIPPING HER OF A FUNDAMENTAL RIGHT WITHOUT ADEQUATE DUE PROCESS PROTECTIONS

In stripping Ms. Casselli of the joint custody of her daughter without a hearing, the Trial Court has deprived Ms. Casselli of a fundamental right without the minimum protections required for even minor deprivations of life, liberty, or property. Although careful research suggests that this Hon-

1. Quoted from Brief for Petitioner at 8 (1996 WL 291022), M.L.B. v. S.L.J., 117 S.Ct. 555, 136 L.Ed. 473 (1996) (95-853).

orable Supreme Court has never been presented with a case where a mother has been stripped of the custody of her minor child without a hearing, this Court has established standards for determining when and to what extent a hearing is required before a person may be deprived of a liberty interest, and it has defined a parent's relationship with his or her child as a fundamental right. Under the standards established by this Honorable Court, the Trial Court has violated Ms. Casselli's Constitutional right to due process of law by stripping her of the custody of her daughter without a hearing or an opportunity to cross-examine the mental health professional upon whose recommendations the Trial Court solely relied in issuing its order and, as a result, this Honorable Supreme Court should rescind, vacate, and annul the order of the Trial Court.

A. Even minor deprivations of life, liberty, or property by adjudication must be preceded by a hearing

In Boddie v. Connecticut, this Honorable Supreme Court held that "within the limits of practicality, a State must afford to all individuals a meaningful opportunity to be heard if it is to fulfill the promise of the Due Process Clause." Boddie v. Connecticut, 401 U.S. 371, 379, 91 S.Ct. 780, 786-87, 28 L.Ed.2d 113 (1971). Furthermore, this Court held

that "[w]hat the Constitution does require is an opportunity granted at a meaningful time and in a meaningful manner for a hearing appropriate to the nature of the case." Id., 401 U.S. at 378, 91 S.Ct. at 786 (quoting both Armstrong v. Manzo, 380 U.S. 545, 552, 85 S.Ct. 1187, 1191, 14 L.Ed.2d 62 (1965) and Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 313, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1950)). In further elaboration concerning the words of the Due Process Clause of the Fourteenth Amendment, this Court held that "there can be no doubt that at a minimum they require that deprivation of life, liberty, or property by adjudication be precedent by notice and opportunity for hearing appropriate to the nature of the case. Id., 401 U.S. at 377-78, 91 S.Ct. at 786 (quoting Mullane, 339 U.S. at 313, 70 S.Ct. at 656).

At a minimum, this Honorable Court has required that any deprivation of life, liberty, or property by adjudication be preceded by a hearing appropriate to the nature of the case. Id. In the present case, Ms. Casselli was deprived by the Trial Court of the joint custody of her daughter which necessarily brought about an end to the parental rights she once enjoyed. Marin may no longer benefit from and enjoy the input and participation of her mother in her life. Now, Ms. Casselli may no longer take part in important parental decisions, such as where her daughter goes to school, with

whom her daughter may associate, or even what religious activities her daughter should or should not participate in. She no longer has the right to receive information about her daughter's medical records or school records or to participate in her daughter's school functions and extracurricular activities. She does not even have the right to know the whereabouts of her child. Ms. Casselli has lost all of this, her parental rights, without a hearing or even a chance to cross-examine the mental health professional upon whose recommendations the Trial Court solely relied in issuing its order. A deprivation of the magnitude endured by Marin and Ms. Casselli is certainly deserving of the highest protection the judicial system can afford and at the very minimum, a hearing.

B. A parent's relationship with his or her child is a fundamental right under the Due Process Clause of the Fourteenth Amendment

Beginning with Meyer v. Nebraska in 1923, this Honorable Supreme Court has defined the liberty guaranteed by the Due Process Clause as encompassing the right to raise children. Meyer v. Nebraska, 262 U.S. 390, 399, 43 S.Ct. 625, 626 (1923). In the 1972 case of Stanley v. Illinois, this Court held that "[i]t is plain that the interest of a parent in the

companionship, care, custody, and management of his or her children 'comes to this Court with a momentum for respect' " which "undeniably warrants deference and, absent a powerful countervailing interest, protection." Stanley v. Illinois, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972) (quoting Kovac v. Cooper, 336 U.S. 77, 95, 69 S.Ct. 448, 458, 93 L.Ed. 513 (1949). Finally, in both Lassiter v. Department of Soc. Servs. and Santosky v. Kramer, this Court has held that "the interest of parents in their relationship with their children is sufficiently fundamental to come within the finite class of liberty interests protected by the Fourteenth Amendment." M.L.B. v. S.L.J., 117 S.Ct. 555, 565,136 L.Ed. 473 (1996) (quoting Santosky v. Kramer, 455 U.S. 745, 774 & 787, 102 S.Ct. 1388, 1405 & 1412, 71 L.Ed.2d 599 (1982) and referencing Lassiter v. Department of Soc. Servs., 452 U.S. 18, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981)).

A mother's interest in the companionship, care, custody, and management of her daughter has been generally characterized by this Honorable Court as "an interest far more precious than any property right." Santosky, 455 U.S. at 759-60, 102 S.Ct. at 1397. Thus, according to the dictates of this Honorable Court, Ms. Casselli's interest in the custody and care of her daughter is a fundamental right deserving of the highest protections the judicial system can afford, and

she should be entitled at the very least to a hearing and a chance to cross-examine and confront the mental health professional upon whose written recommendations the Trial Court solely relied in stripping her of the custody of her daughter. Because the Trial Court has violated Ms. Casselli's Constitutional right to due process of law by stripping her of a fundamental right without a hearing, this Honorable Supreme Court should rescind, vacate, and annul the order of the Trial Court granting sole custody to Mr. Casselli.

II. THE TRIAL COURT VIOLATED MS. CASSELLI'S CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW BY STRIPPING HER OF THE JOINT CUSTODY OF HER DAUGHTER IN DIRECT CONTRAVENTION OF LOUISIANA LAW

Have Louisiana courts become so preoccupied with their own power that they readily disregard the laws which they have sworn to uphold in order to impose their will? A careful review of this case indicates the answer may unfortunately be "yes."

Under Louisiana law, a change in custody requires proof by clear and convincing evidence that such an award is in the best interest of the child. This burden of proof necessarily requires that custody matters be tried contradictorily. However, in this case, the Trial Court has stripped a parent of the custody of her child without a hearing and

without requiring the moving party to prove that such a change is in the best interest of the child.

Furthermore, Louisiana law requires that all court appointed mental health professionals who perform evaluations in child custody proceedings serve as witnesses of the court so that they may be subject to cross-examination. However, in this case, the Trial Court relied solely upon the written recommendations of the Court's mental health professional and then refused to allow a hearing which precluded the parties from cross-examining the Court's mental health professional.

Lastly, the Louisiana Civil Code does allow for an ex parte order of temporary custody, but it requires a showing through specific facts that immediate and irreparable injury will result to the child before the adverse party or his attorney can be heard in opposition. An ex parte order of temporary custody expires by operation of law within fifteen days and a rule to show cause must be assigned for hearing not more than fifteen days after the order has been signed. In this case, the Trial Court issued what amounts to an ex parte order of temporary custody without any showing that immediate or irreparable injury would result to the child and scheduled a hearing more than five months after the order was signed.

Because the Trial Court violated Ms. Casselli's Con-

stitutional right to due process of law under Section 1 of the XIV Amendment of the United States Constitution by stripping her of the joint custody of her daughter in direct contravention of Louisiana law, this Honorable Supreme Court should rescind, vacate, and annul the order of the Trial Court granting sole custody.

A. The Trial Court violated Louisiana law by stripping Ms. Casselli of the joint custody of her daughter in the absence of a hearing

Mr. Casselli's motion requested a change in the custody of a minor child from joint custody to sole custody in his favor. Under Louisiana Civil Code Article 132, such a change necessarily requires proof by clear and convincing evidence that such an award is in the best interest of the child. La. Civ. Code Art. 132 (West 1997). Furthermore, under Louisiana Code of Civil Procedure Article 963, if an order applied for by motion is "one to which the mover is not clearly entitled, or which requires supporting proof, the motion shall be served on and tried contradictorily with the adverse party." La. Code Civ. Proc. Art. 963 (West 1997).

Mr. Casselli has a burden of proving by clear and convincing evidence that it is in Marin's best interest that he be awarded sole custody before a court may issue an award

of sole custody, and this burden cannot be satisfied merely by oral motion solely upon the written recommendations of the court appointed evaluator and over the objections of the opposing party without affording the opposing party an opportunity to be heard. By denying Ms. Casselli the right to a hearing before issuing its order, the Trial Court has decided that even where the most important and fundamental rights are at issue, such as a parent's relationship with his or her child, it may summarily deny the party who stands to lose the most all of the protections afforded by the Louisiana Civil Code, the Louisiana Code of Civil Procedure, and the Louisiana Code of Evidence by simply denying that party a hearing.

Because the Trial Court has violated Ms. Casselli's Constitutional right to due process of law by stripping her of the custody of her minor child without a hearing, in contravention of Article 132 of the Louisiana Civil Code and Article 963 of the Louisiana Code of Civil Procedure, this Honorable Supreme Court should rescind, vacate, and annul the order of the Trial Court granting sole custody to Mr. Casselli.

B. The Trial Court violated Louisiana law by stripping Ms. Casselli of the joint custody of her daughter without an opportunity to cross-examine the Trial Court's mental health professional

Under Title 9, Section 331 of the Louisiana Revised Statutes, a court may order an evaluation of a child and any of the parties to a custody or visitation proceeding; however, the statute specifies that the mental health professional who performs the evaluation "shall provide . . . the parties with a written report . . . [and] shall serve as the witness of the court, subject to cross-examination by a party." La. Rev. Stat. § 9:331 (West 1997). Furthermore, the Louisiana Fourth Circuit Court of Appeal has held that pursuant to an evaluation performed under Section 331, failure to allow a party an "opportunity to . . . effectively cross examine [a mental health professional] results in a denial of fundamental due process requiring reversal of the judgment." Fuge v. Uiterwyk, 94-1815, p. 5-6 (La.App. 4 Cir. 3/29/95), 653 So.2d 707, 712.

A mental health professional, Dr. Janzen, was appointed by the Trial Court, pursuant to Section 331, to conduct an evaluation of both parties, Mr. Casselli and Ms. Casselli, and the minor child, Marin. The Trial Court accepted Dr. Janzen's recommendations outright, over the objections of Ms. Casselli, by granting Mr. Casselli sole custody of Marin in an Interim Order. At no time did Ms. Casselli waive her right to cross examine Dr. Janzen. Dr. Janzen did not serve as a witness of the Trial Court, nor was he subject to cross-examination by either party because the

Trial Court issued its order stripping Ms. Casselli of joint custody without a hearing.

Although it may be argued that trial courts are vested with much discretion in determining what is in the best interest of a child, the Trial Court has not weighed the best interest of the child in this case because it has based its decision solely upon one person's recommendation and has effectively silenced all criticism of this recommendation by denying the mother of the child a hearing or chance to cross-examine the Court's mental health professional.

In Fuge v. Uiterwyk, a mother and her children were denied the opportunity to review the report of the trial court's mental health professional. Id. The Louisiana Fourth Circuit Court of Appeal held that because the mother and children had been denied the opportunity to review the report and because this prevented them from being able to effectively cross-examine the court's mental health professional pursuant to Section 331, they had been denied fundamental due process requiring reversal of the judgment awarding the father visitation. Id. Like the mother in Fuge, Ms. Casselli has been denied the opportunity to effectively cross-examine the Trial Court's mental health professional because the Trial Court issued an order stripping her of the joint custody of her daughter prior to a hearing. Thus, like the Louisiana appellate court in Fuge, this Honorable Supreme Court should

rescind, vacate, and annul the order of the Trial Court.

C. Even under Article 3945 of the Code of Civil Procedure, which allows an order of temporary custody without a hearing, Ms. Casselli should not have been stripped of the joint custody of her daughter

Under Article 3945 of the Louisiana Code of Civil Procedure, an ex parte order of temporary custody may be granted if "[i]t clearly appears from specific facts shown by a verified petition or by supporting affidavit that immediate and irreparable injury will result to the child before the adverse party or his attorney can be heard in opposition." La. Code Civ. Proc. Art. 3945 (West 1997). Furthermore, an ex parte order of temporary custody expires by operation of law within fifteen days, and a rule to show cause must be assigned for hearing not more than fifteen days after the order has been signed. Id.

The Trial Court's Interim Order, which stripped Ms. Casselli of joint custody and awarded sole custody to Mr. Casselli, cannot be justified under Article 3945 of the Code of Civil Procedure because Mr. Casselli's Supplemental and Amending Rule to Show Cause and for Contempt, wherein he requested that he be granted sole custody of Marin, is not a verified petition nor was it supported by an affidavit alleging immediate and irreparable injury to Marin if an order was not

entered before a hearing. [Appendix E]. Instead, Mr. Casselli specifically requested sole custody based upon an alleged substantial change in circumstances and not temporary custody to prevent immediate and irreparable injury to Marin. Furthermore, the hearing for Mr. Casselli's Rule has been scheduled for April 22, 1998, which is more than five months after the signing of the Interim Order granting custody and is far beyond the fifteen days required by Article 3945.

Because all of the provisions of Article 3945 have not been satisfied in the present case, this Honorable Supreme Court should rescind, vacate, and annul the order of the Trial Court as specifically mandated by Section E of that Article.

CONCLUSION

In stripping Ms. Casselli of the joint custody of her daughter without a hearing, the Trial Court has deprived Marin and Ms. Casselli of a fundamental right without the minimum protections required for even minor deprivations of life, liberty, or property by this Honorable Supreme Court. A deprivation of the magnitude endured by Marin and Ms. Casselli is certainly deserving of the highest protection the judicial system can afford and at the very minimum, a hearing. Thus, this Honorable Court should rescind, vacate,

and annul the order of the Trial Court granting sole custody.

Furthermore, because the Trial Court violated Ms. Casselli's constitutional rights to due process of law by stripping her of the custody of her daughter without a hearing, in direct contravention of Articles 132 of Louisiana Civil Code and 963 of the Louisiana Code of Civil Procedure, and without an opportunity to cross-examine the Trial Court's mental health professional, in direct contravention of Title 9, Section 331 of the Louisiana Revised Statutes, this Honorable Supreme Court should rescind, vacate, and annul the order of the Trial Court granting sole custody. Anything less would deprive Ms. Casselli of a hearing and summarily deny to her all of the protections afforded in a hearing by the Civil Code, the Code of Civil Procedure, and the Code of Evidence.

Respectfully Submitted,

LESLIE A. BONIN
700 Camp Street
New Orleans, LA 70130
(504) 524-3306

Counsel for Petitioner,
Donna Madden Casselli

APPENDIX A

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

CASE NUMBER: 450-346 DRS:2

DONNA MADDEN, WIFE OF HENRY CASSELLI, JR.

VERSUS

HENRY CASSELLI, JR.

FILED: Feb 18, 1994 _____
DEPUTY CLERK

CONSENT JUDGMENT

This cause came for hearing on the 18th day of February, 1994.

Present were:

Robert C. Lowe, attorney for/and **Henry Casselli, Jr.;** and **R. Scott Buhrer,** attorney for/and **Donna M. Casselli.**

The Court, considering the pleadings filed herein and the testimony and consent of the witnesses, finds that the parties have lived separate and apart, without reconciliation, for a period of one hundred and eighty (180) days, and that a judgment of divorce is warranted pursuant to La. Civil Code art. 102; therefore,

IT IS ORDERED, ADJUDGED AND DECREED that there be a judgment herein granting a divorce a vinculo matrimonii between Donna M. Casselli and her spouse, Henry Casselli, Jr., dissolving forever the bonds of matrimony heretofore existing between them.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant Henry Casselli, Jr., agrees to and is hereby ordered to pay Donna M. Casselli contractual periodic alimony, not lump-sum alimony, of TWO THOUSAND AND NO/100 DOLLARS ($2,000.00) per month for a period of five (5) years, commencing February 1, 1994, and shall be due and payable on the first day of each month, and ending with the last payment as of January 1, 1999. This payment is not subject to any increase or decrease whatsoever under any circumstances whatsoever. Further, this payment shall terminate on Henry Casselli, Jr.'s death, Donna M. Casselli's death, her remarriage or residing in open concubinage. Donna M. Casselli agrees to and further knowingly waives any right which she may have to any other alimentary or spousal support under any and all circumstances whatsoever which waiver is in consideration of the financial payments and which waiver is accepted by the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Henry Casselli, Jr. agrees to and further knowingly waives any right which he may have to permanent

alimony or any other alimentary or spousal support from Donna M. Casselli and which waiver is accepted by he Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Donna M. Casselli and Henry Casselli, Jr., shall share joint custody of their minor child, Marin Casselli, with Donna M. Casselli designated as the domiciliary parent subject to the joint custody implementation plan submitted by the parties to the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Henry Casselli, Jr., shall pay or cause to be paid to Donna M. Casselli the sum of ONE THOUSAND TWO HUNDRED AND NO/100 DOLLARS ($1,200.00) per month in child support payable on the first day of each and every month, for the support and maintenance of their minor child, Marin Casselli, until it terminates under Louisiana law. This child support shall not be increased or decreased under any circumstances whatsoever. Both parties agree that this provision and aware are, and will be, in Marin's best interest.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Henry Casselli, Jr. shall pay or cause to be paid all middle and upper high school tuition and related expenses billed by the school for their minor child, Marin Casselli.

IT IS FURTHER ORDERED, ADJUDGED AND DE-

CREED that Henry Casselli, Jr. will provide and pay for, or cause to be provided and paid for, health insurance and all unreimbursed/uncovered medical and dental expenses for the benefit of their two children, Dana Casselli and Marin Casselli. There shall be no elective medical or dental expenses without the advance consent of Henry Casselli, Jr. The obligation concerning Dana and Marin shall last as long as she is a full time student in an accredited college, university or professional school.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Ford Explorer registered in the name of Henry Casselli, Jr., will be transferred to Dana Casselli at the end of the present semester, if but only if, she maintains a satisfactory grade point average, and that Henry Casselli, Jr. may use the Ford Explorer at his own expense until that time, and Donna Casselli is not entitled to any claim or any credit with regard to the use or value of the Ford Explorer, whether arising from or in any way related to Henry Casselli, Jr.'s use of the vehicle or because of the transfer as a donation to Dana, or if he keeps it because her grade point average is not satisfactory.

JUDGMENT READ, RENDERED AND SIGNED this 18 day of February, 1994 at Gretna, Louisiana.

/s/ Melvin C. Zeno
JUDGE

APPROVED AS TO FORM AND CONTENT:

/s/Donna M. Casselli
DONNA M. CASSELLI

/s/ R. Scott Buhrer
R. Scott Buhrer
Attorney at Law
600 Loyola Avenue
Suite 201
New Orleans, Louisiana 70113

/s/ Henry Casselli, Jr.
HENRY CASSELLI, JR.

/s/ Robert C. Lowe
Robert C. Lowe, Esq.
One Shell Square
701 Poydras Street, Ste. 3600
New Orleans, Louisiana 70139

APPENDIX B

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 450-346 DRS-2

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

FILED: Nov 22, 96 _____
DEPUTY CLERK

RULE TO SHOW CAUSE AND FOR CONTEMPT

NOW INTO COURT, through undersigned counsel, comes mover, Henry Casselli, Jr., and on suggesting to this Honorable Court that a Consent Judgment was entered into by the parties on February 18, 1994; and on further suggesting that it was in the best interest of the minor child of the marriage, Marin Casselli, that joint custody be awarded to the parties; defendant-in-rule, Donna M. Casselli was designated as domiciliary parent, subject to a joint custody implementation plan submitted by the parties to the Court, which provides that: "All major decisions shall be **joint** and **shared**. In the event of a dispute concerning any such major deci-

sions, the parties shall resort to mediation or file a rule to show cause." Defendant-in-rule is attempting to usurp all powers and decision-making concerning the minor child in clear derogation of the joint custody implementation plan and the joint custody award. This is in violation of this Honorable Court's Order.

Also, without limitation, defendant-in-rule, Donna M. Casselli, is making it difficult for your mover, Henry Casselli, Jr. to enjoy his joint custody of the minor child, as she has placed a block on the telephone, making it impossible for Mr. Casselli to reach the minor child by telephone. On information and belief, defendant-in-rule, may be taping his conversations with the minor child. Henry Casselli, Jr. should be allowed unmonitored telephone access to his child, and these actions also clearly derogate the Consent Judgment entered into by the parties on February 18, 1994.

Further, without limitation, the minor child, Marin Casselli, who is presently 15 years old, has expressed and intent to spend equal time with her father, your mover. Such access is in the minor's best interest. As these parties have joint custody of the child, there should be no reason why the child cannot spend approximately equal time with her father, and Henry Casselli, Jr., hereby requests that Donna M. Casselli show cause why this equal sharing should not be awarded to him.

Concerning equal sharing, Henry Casselli, Jr., respectfully requests that he and Donna M. Casselli alternate major holidays, thereby giving them equal time and access with the minor child, Marin Casselli, over all major holidays.

Henry Casselli, Jr., your mover, believes that defendant-in-rule ahs made derogatory statements about him, perhaps even to the minor child, and is directly or indirectly attempting to alienate the child's affection for him.

Mover, Henry Casselli, Jr., respectfully suggests to this Honorable Court that defendant-in-rule, Donna M. Casselli should be ordered to show cause on a date and at a time to be set by this Honorable Court, why he should not be granted the relief he seeks. Further, your mover requests that defendant-in-rule show cause why she should not be held in contempt of this Court and ordered to pay attorney's fees and court costs incurred by mover in prosecution of thus rule, since defendant-in-rule has acted in derogation of the Consent Judgment and joint custody implementation plan entered into by the parties.

Respectfully Submitted,

LOWE, STEIN, HOFFMAN, ALLWEIS & HAUVER

/s/ Paula H. Lee
ROBERT C. LOWE (8904)
PAULA H. LEE (24155)
3600 One Shell Square
701 Poydras Street
New Orleans, Louisiana 70139-3600
(504) 581-2450
Attorneys for Henry C. Casselli, Jr.

ORDER

Considering the above and foregoing:

IT IS ORDERED that defendant-in-rule, Donna M. Casselli, show cause on the 7 day of April, 1997, at _____ o'clock ___.m., why she should not, in accordance with the Consent Judgment and joint custody implementation plan, allow mover, Henry Casselli, Jr., equal input on all decisions regarding the minor child, Marin Casselli; why she should not immediately remove the call block feature from the phone and allow Henry Casselli, Jr., unrestricted and unmonitored access by telephone to the minor child; why Marin Casselli should not spend equal time with both parents; why equal time with the minor child should not include alternate sharing of all major holidays; why Donna M. Casselli should not refrain from attempting to alienate the child's affection for

your mover, why Donna M. Casselli should not be held in contempt of court for refusing to adhere to the Consent Judgment and joint implementation plan in failing and refusing to allow plaintiff-in-rule his proper input concerning all major decisions; and why Donna M. Casselli should not be required to pay the attorney's fees and court costs incurred by mover in the prosecution of this rule.

Gretna, Louisiana, this 25 day of November, 1996.

/s/ Walter J. Rothschild
JUDGE

PLEASE SERVE:

Donna Madden Casselli
4015 N. Labarre Road
Metairie, Louisiana 70002

APPENDIX C

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 450-346 DOMESTIC RELATIONS SECTION "TWO"

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

FILED: Dec 13, 96 DEPUTY CLERK:_____

INTERIM ORDER

This matter came on for hearing on December 12, 1996, on a request for a status conference by Henry Casselli, Jr. Attorneys for both parties were present.

After having a status conference with the parties, and discussing the situation with the minor child, Marin's, psychologist, which procedure was agreed upon by the parties,

IT IS ORDERED that Henry Casselli will have physical custody of the minor child, Marin. Marin will have visitation with her mother on the terms and conditions, as recommended by Marin's therapist, Dr. Baer, after consultation with Mrs. Casselli's therapist, Brenda Coleman, who will have input from Dr. Roniger, on a weekly basis, and other-

wise on such terms, conditions and provisions as recommended by Dr. Baer.

IT IS FURTHER ORDERED that this Interim Order is entered without prejudice to the rights of either party and specifically without giving rise to any presumption in favor of either party.

GRETNA, Louisiana, this 13 day of December, 1996.

/s/ Walter J. Rothschild
JUDGE

READ AND APPROVED AS TO FORM
AND CONTENT AND SUBMITTED:

/s/ Robert C. Lowe
ROBERT C. LOWE (8904)
One Shell Square, Suite 3600
701 Poydras Street
New Orleans, LA 70139-3600
Phone: (504) 581-2450
Attorney for Henry Casselli, Jr.

/s/ Leslie A. Bonin
LESLIE A. BONIN (14090
700 Camp Street
New Orleans, LA 70130
Phone: (504) 524-3306
Attorney for Donna Casselli

APPENDIX D

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 450-346 DIV. "A"

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

FILED: Jan 6, 97 _____
DEPUTY CLERK

RULE TO SHOW CAUSE

NOW INTO COURT, through undersigned counsel, comes defendant/movant-in-rule, Henry Casselli, Jr., who respectfully represents the following:

I.

By Consent Judgment of 18 February 1994 plaintiff and defendant were awarded joint custody of the minor child, Marin Casselli, with Donna M. Casselli designated as the domiciliary parent subject to the Joint Custody Implementation Plan submitted by the parties to the Court on that same day.

II.

Paragraph E(ii) of the Joint Custody Implementation Plan stated as follows:

> The parties agree to forego adopting a rigid access schedule at this time, believing that it is in the best interest of their minor child that parent access be flexible depending on the circumstances at any given instance.

III.

On 22 November 1996 movant filed a Rule To Show Cause And For Contempt wherein he requested that he be awarded approximately equal timesharing with the minor child, Marin Casselli.

IV.

Additionally, Movant has filed simultaneously herewith a Supplemental and Amending Rule To Show Cause And for Contempt where he requests that he be awarded sole custody of the minor child, or alternatively, if joint custody is maintained, that he be designated domiciliary parent.

V.

Movant avers that good cause exists, and that it is in the best interest of the minor child, that this Honorable Court order an evaluation of plaintiff, Donna Casselli, by a mental

health professional agreed upon by the parties, or appointed by the Court, failing the parties ability to agree; that the Court order Donna Casselli to submit to and cooperate in the evaluation, testing, or interview by the mental health professional; that the mental health professional provide the Court and the parties with a written report and serve as witness of the Court, subject to cross-examination by each party; and that the Court render judgment for costs of the evaluation or any party thereof as it considers equitable, all as provided for by La.R.S. 9:331.

WHEREFORE, movant, Henry Casselli, Jr., prays that Donna M. Casselli be ordered to appear and show cause, if any she has or can, why a mental health professional should not be appointed and an evaluation of her conducted pursuant to La.R.S. 9:331, all as prayed for hereinabove.

Respectfully Submitted,

LOWE, STEIN, HOFFMAN, ALLWEIS & HAUVER

/s/ Suzette Marie Smith
ROBERT C. LOWE (8904)
SUZETTE MARIE SMITH (17806)
3600 One Shell Square
701 Poydras Street
New Orleans, Louisiana 70139-3600
(504) 581-2450
Attorneys for Henry C. Casselli, Jr.

ORDER

Considering the above and foregoing:

IT IS ORDERED that Donna M. Casselli appear and show cause, if any she has or can, on the 20 day of February, 1997, at 9 o'clock a.m., why a mental health professional should not be appointed to evaluate her pursuant to the requirements and terms of La.R.S. 9:331, all as prayed for hereinabove.

Gretna, Louisiana, this 6 day of January, 1997.

/s/ Marion Edwards
JUDGE

PLEASE SERVE:
Donna Madden Casselli
4015 N. Labarre Road
Metairie, Louisiana 70002

APPENDIX E

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 450-346 DIV. "A"

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

FILED: Jan 6, 97 _____
DEPUTY CLERK

SUPPLEMENTAL AND AMENDING RULE

TO SHOW CAUSE AND FOR CONTEMPT

NOW INTO COURT, through undersigned counsel, comes movant, Henry Casselli, Jr., who respectfully supplements his Rule To Show Cause And For Contempt filed herein on 22 November 1996, by adding the following:

I.

By Consent Judgment of 18 February 1994 plaintiff and defendant were awarded joint custody of the minor child, Marin Casselli, with Donna M. Casselli designated as domicilary parent subject to the Joint Custody Plan of Implementation submitted by the parties to the court on that same day.

II.

Movant further avers that the Joint Custody Plan of Implementation of 18 February 1994 provides the following:

C. NO ALIENATION OF AFFECTIONS

> Neither Father nor Mother shall attempt, or condone any attempt, directly or indirectly, by any artifice or subterfuge whatsoever, to estrange the child from the other party or the other's family, or to injure or impair the mutual love and affection of the child.
>
> At all times the parties shall encourage and foster in the child sincere respect and affection for both parties, and shall not hamper the natural development of the child's love and respect for the other parent or that parent's family.

III.

Despite the prohibition on alienation of affections, defendant-in-rule, Donna M. Casselli, has attempted to estrange the child from movant, and to injure and impair the child's love and affection for movant by inventing and publicizing false allegations of abuse of the child by movant, thereby interfering with movant's free access, both verbally, and in person, to the minor child, all in violation of the prohibition on alienation of affections contained in the Joint Custody Implementation Plan referenced herein.

IV.

Movant further avers that, since the rendition of the 18 February 1994 Consent Judgment there has been a substantial change in circumstances materially affecting the welfare of the child such that it is in the best interest in the minor child that sole custody be awarded to Henry Casselli, Jr., or, alternatively, failing that, that if custody be maintained and Henry Casselli, Jr., be designated domiciliary parent. The change of circumstances includes, but is not limited to, Donna Madden Casselli's invention and continuing propagation of false allegations of abuse of the child by Henry Casselli, Jr., her threats to the child to have Henry Casselli, Jr., arrested, her confrontational and inflammatory conduct toward Henry Casselli, Jr., the distress and embarrassment caused to Henry Casselli, Jr., and the child, by Donna Madden Casselli's words and conduct, and her disregard for the child's needs and preferences.

WHEREFORE, movant, Henry Casselli, Jr., prays that his original Rule To Show Cause And For Contempt be supplemented accordingly, and that defendant-in-rule, Donna M. Casselli, be ordered to appear and show cause, if any she has or can, why he should not be granted the relief sought in his original Rule to Show Cause And for Contempt, this Supplemental and Amending Rule To Show Cause And

For Contempt, and, additionally, why she should bot be held in contempt of this Honorable Court and punished accordingly for her violation of the Joint Custody Implementation Plan of 18 February 1994.

Respectfully Submitted,

LOWE, STEIN, HOFFMAN, ALLWEIS & HAUVER

/s/ Suzette Marie Smith
ROBERT C. LOWE (8904)
SUZETTE MARIE SMITH (17806)
3600 One Shell Square
701 Poydras Street
New Orleans, Louisiana 70139-3600
(504) 581-2450
Attorneys for Henry C. Casselli, Jr.

ORDER

Considering the above and foregoing:

IT IS ORDERED that defendant-in-rule, Donna M. Casselli, appear and show cause, if any she has or can, on the 7th day of April, 1997, at 9:00 o'clock a.m., why movant should not be granted the relief requested in his original Rule To Show Cause And For Contempt and this Supplemental And Amending Rule to Show Cause and For Contempt, and why she should not be held in contempt of this Honorable Court and punished accordingly for her violation of the Joint

Custody Implementation Plan of 18 February 1994.

Gretna, Louisiana, this 6 day of January, 1997.

/s/ Marion Edwards
JUDGE

PLEASE SERVE:
Donna Madden Casselli
4015 N. Labarre Road
Metairie, Louisiana 70002

APPENDIX F

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 450-346 DIV. "A"

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

FILED: Nov 7, 97 _____
DEPUTY CLERK

INTERIM ORDER

This matter came for a status conference on October 8, 1997.

Present were:

Leslie A. Bonin, attorney for plaintiff, Donna M. Casselli; and Robert C. Lowe and Suzette M. Smith, attorney for defendant, Henry Casselli, Jr.

Following a status conference with the attorneys and a review of Dr, William Janzen's custody report:

IT IS ORDERED that Henry Casselli, Jr. shall have **interim sole custody** of the minor child, Marin Casselli, pursuant to the recommendations of Dr. William Janzen

contained in his most recent custody evaluation report.

IT IS FURTHER ORDERED that Donna Madden Casselli shall have **interim visitation** with the minor child, Marin, every other weekend, beginning after school on Thursday and ending just before school starts on Monday mornings. The interim visitation shall commence on Thursday, October 9, 1997.

IT IS FURTHER ORDERED that Major Holidays shall be worked out among and between the parties. Until the parties implement a schedule for major holidays, such holidays shall be **alternated** on an interim basis. The parties may call a status to resolve any conflicts regarding visitation or custody.

IT IS FURTHER ORDERED that this Interim Order is entered without prejudice to the rights of either party and specifically without giving rise to any presumption in favor of either party.

Thus done and signed in Gretna, Louisiana this 7 day of November, 1997.

/s/ Walter J. Rothschild
JUDGE

APPENDIX G

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 450-346 DIV. "A"

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

FILED: Nov 7, 97 _____
DEPUTY CLERK

NOTICE OF INTENTION TO APPLY FOR WRITS OF
REVIEW, CERTIORARI, AND MANDAMUS

TO: THE HONORABLE WALTER ROTHSCHILD
Judge, Division "A"
Twenty Fourth Judicial District Court for the Parish of Jefferson
Gretna Courthouse
Gretna, LA

AND

HENRY C. CASSELLI
through his attorney,
Mr. Robert C. Lowe
701 Poydras Street, #3600
New Orleans, LA 70139

In accordance with Rule 4-2, Uniform Rules – Courts of Appeal, you are hereby notified of the Intention of Donna Madden Casselli, Plaintiff in the above matter, to apply to the Court of Appeal, Fifth Circuit, for Writs of Review, Certiorari, and Mandamus concerning the Order of this Court rendered on the 8th day of October, 1997.

Respectfully Submitted:

/s/ Leslie A. Bonin
LESLIE A. BONIN #14090
Attorney for Donna Madden Casselli
700 Camp Street
New Orleans, LA 70130
Telephone: (504) 524-3306

ORDER

Considering the above and foregoing;

IT IS ORDERED that Donna Madden Casselli, Plaintiff/Relator herein, has until the 12th day of November, 1997 to file the application for writs of review, certiorari, and mandamus concerning the Order rendered herein on the 8th day of October, 1997 by the Honorable Walther Rothschild, Judge, Division "A", Twenty Fourth Judicial District Court for the Parish of Jefferson, with the Court of Appeal, Fifth Circuit.

GRETNA, LOUISIANA this 27th day of October,

1997.

/s/ Walter J. Rothschild
JUDGE

APPENDIX H

No. 97-C-1127

COURT OF APPEAL, FIFTH CIRCUIT

STATE OF LOUISIANA

/s/ by clerk of court [illegible]
Clerk

DONNA MADDEN, WIFE OF HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

IN RE DONNA MADDEN CASSELLI

APPLYING FOR SUPERVISORY WRITS OF REVIEW, CERTIORI AND MADAMUS DIRECTED TO THE HONORABLE WALTER J. ROTHSCHILD, JUDGE, DIVISION "A", TWENTY-FOURTH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON, STATE OF LOUISIANA, NUMBER 450-346

Attorneys for Relator:

Ms. Leslie A. Bonin
Attorney at Law
700 Camp Street
New Orleans, LA 70130
(504) 524-3306

Attorneys for Respondent:

Mr. Robert C. Lowe
Ms. Suzette M. Smith
Attorney at Law
701 Poydras Street
Suite 3600 One Shell Square
New Orleans, LA 70139
(504) 581-2450

DECEMBER 16, 1997

PETITION FOR WRITS DENIED
REMANDED WITH INSTRUCTIONS

Considering the volatile background of this case, we cannot say that the trial judge erred in issuing the November 7, 1997 interim order. What is of concern to this Court, however, if the fact that the hearing (trial) has been pending for months and is not scheduled to be heard until April 22-24, 1998. Matters of this type should be heard as expeditiously as possible. Accordingly, we remand to the trial judge for him to set a trial date earlier than April 22-24, 1998.

/s/ Charles H. Gaudin
JUDGE H. CHARLES GAUDIN

/s/ Fred S. Bowes
JUDGE FRED S. BOWES

/s/ Charles Grisbaum, Jr.
JUDGE CHARLES GRISBAUM, JR.

APPENDIX I

The Supreme Court of the State of Louisiana

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR,

VS. NO. 98-CC-0126

HENRY CASSELLI, JR.

– – – – – –

IN RE: Madden, Donna; Casselli, Donna Madden; - Plaintiff(s); Applying for Supervisory and/or Remedial Writs; Parish of Jefferson 24th Judicial District Court Div. "A" Number 450-346; to the Court of Appeal, Fifth Circuit, Number 97-CW-1127

– – – – – –

February 6, 1998

Denied.

PFC
WFM
HTL
CDK
BJJ
JPV
CDT

KNOLL, J. not on panel.

Supreme Court of Louisiana
February 6, 1998

/s/ by clerk of Court [illegible]
Clerk of Court
For the Court

APPENDIX J

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 450-346 DIV. "A"

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

FILED: Feb 9, 98 _____
DEPUTY CLERK

REQUEST FOR STAY ORDER

NOW INTO COURT, through undersigned counsel, comes Mover, Donna Madden Casselli, who respectfully requests that this Honorable Court stay the Interim Order rendered herein on the 7th day of November, 1997 changing the custody of the minor child, Marin, from joint custody to sole custody pending the timely filing and disposition of her Application to the Supreme Court of the United States for a Writ of Certiorari.

Respectfully submitted:

/s/ Leslie A. Bonin
LESLIE A. BONIN #14090
Attorney for Donna Madden Casselli
700 Camp Street
New Orleans, LA 70130
Telephone: (504) 524-3306

24TH JUDICIAL DISTRICT COURT FOR THE PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 450-346 DIV. "A"

DONNA MADDEN, WIFE OF
HENRY CASSELLI, JR.

versus

HENRY CASSELLI, JR.

FILED:_____ _____
DEPUTY CLERK

ORDER

Considering the above and foregoing;

IT IS ORDERED that the Interim Order signed herein on the 7th day of November, 1997 changing custody of the minor child, Marin Casselli, from joint custody to sole custody be and the same is hereby stayed pending the timely filing and disposition of the Application by Mover, Donna Madden Casselli, to the Supreme Court of the United States for a Writ of Certiorari.

GRETNA, LOUISIANA this 9 day of February, 1998.

DENIED

/s/ Walter J. Rothschild
JUDGE

PLEASE SERVE:

HENRY CASSELLI,
Through his attorney,
Mr. Robert C. Lowe
701 Poydras St., #3600
New Orleans, LA 70139